

## Agenda Item # 12.A.



STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR  
**BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS**  
2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833-2945  
Phone (916) 263-7800 Fax (916) 263-7859 Web [www.bvnpt.ca.gov](http://www.bvnpt.ca.gov)



DATE: February 18, 2009

TO: Board Members

FROM: Teresa Bello-Jones  
Executive Officer

SUBJECT: **Governor's Proposal to Consolidate Boards**

### **Statement of Issues**

On December 31, 2008, Governor Schwarzenegger presented a list of suggested actions the legislature could take as part of a budget solution in the "2009/2010 Governor's Budget, General Fund Proposals" (copy attached). Among the suggested actions are two proposals that immediately impact the Board of Vocational Nursing and Psychiatric Technicians (BVNPT):

- Consolidation of **Licensed Vocational Nurses (LVNs)** with the Board of Registered Nurses to create a new *Board of Registered and Vocational Nurses*.
- Consolidation of Behavioral Sciences, **Psychiatric Technicians (PTs)** and the Board of Psychology to create a new *Board of Mental Health*.

These suggestions may be included as part of a Budget Trailer Bill in the current legislative Budget Bill processes or submitted as part of a reorganization plan to the Little Hoover Commission.

The BVNPT may consider taking a position on the Governor's suggestions to consolidate the body's regulating LVNs and PTs.

### **Background**

On January 16, 2009, the Governor identified 18 ways to consolidate, eliminate and reorganize government that will streamline responsibilities, improve efficiency and save billions of dollars (see The Governor's Roadmap for More Efficient Government, copy attached). Specifically, this document proposed, in part:

- the consolidation of the Vocational Nursing Program with the new Board of Registered and Vocational Nurses will **save \$123,000**; and
- the consolidation of the Psychiatric Technician Program with the new Board of Mental Health will **save \$113,000**.

On February 3, 2009, various newspaper articles indicated that the Governor's Office now projects a total cost savings of **\$126 million in the first year** (copy attached). The current proposal indicates, in part, the following:

- Eliminates the boards of Registered Nursing (BRN) and Vocational Nursing and creates a new Board of Registered and Vocational Nurses, **cutting 16.0 positions. Savings: \$619,000**
- Eliminates the boards of Behavioral Sciences, Psychiatric Technicians and Psychology and creates a new Board of Mental Health, **cutting 17.0 positions. Savings: \$642,000**

On February 9, 2009, the BVNPT obtained clarification from Department of Consumer Affairs' (DCA) Budget Office that the projected cost savings were achieved in part through the following cuts:

- **Proposed Board of Registered & Vocational Nurses** – Assumes permanent elimination of 5.0 staff positions, 11.0 board member positions and their miscellaneous operating expense and equipment. This equates to 16.0 positions.
- **Proposed Board of Mental Health** – Assumes permanent elimination of 6.0 staff positions, 11.0 board members positions and their miscellaneous operating expense and equipment. This equates to 17.0 positions.

### **Policy & Fiscal Impacts**

BVNPT staff research indicates the following issues:

- **Board Member Composition** – Currently, the BRN is a 9 member board and the BVNPT is an 11 member board. Merging with the BRN would require a balance in Board Member appointments to ensure equal representation of the LVNs, Registered Nurse (RN) members and a public member majority.

Currently, the Board of Behavioral Sciences (BBS) is an 11 member board and the Board of Psychology is a 9 member board. Creating a Mental Health Board would require a balance in Board Member appointments for equal representation of the PTs, behavioral science, psychology members and a public member majority.

- **Legislative Intent & Scope of Oversight** – Historically, the responsibility for the PT Program was placed with the BVNPT due to the unique mental health *and nursing care* functions performed by PTs. The PTs are considered entry-level practitioners as are the LVNs. Moving PTs to a Board that has no nursing expertise would require specialized "nursing" consultant staff to interpret the varied and ever changing scopes of practices for their respective licensees and to be current in PT curriculum. The PT scope of practice includes nursing science (basic medical/surgical care) in addition to Mental Disorders and Developmental Disability techniques.
- **Nursing Shortage** – Merging with the BRN may ultimately diminish the LVN's scope of practice by organizations that wish to pursue making RNs the entry level into nursing. This

may erode the LVN's role, exacerbate the nursing shortage, and create barriers to licensure.

Placing PTs in a Mental Health Board may exacerbate the shortage of PTs. They are considered entry-level practitioners. Any erosion of their scope of practice or numbers would only increase the current PT shortage.

- Public Policy Issues – Merging with the BRN would increase the issues a single board must deal with relative to the effective and efficient regulation of over 417,173 “active” licensees (i.e., 78,574 LVNs and 338,599 RNs as of 6/30/08). The workload may be difficult to manage, given the varying scopes of practice, educational and discipline issues that constantly arise.

Creating a Mental Health Board would increase the issues a single board must deal with relative to the effective and efficient regulation of over 87,674 “active” licensees (i.e., 9,820 PTs, 60,113 behavioral sciences licenses and 17,741 psychology licenses as of 6/30/08). The workload may be difficult to manage, given the varying scopes of practice, educational and discipline issues that constantly arise.

- Board Meetings – Merging with the BRN would increase the length or number of board meetings required to adopt public policy. A single board would have to conduct 3-4 day board meetings or meet 2 days every month to conduct the Disciplinary Hearings and address all of the public policy issues. The BVNPT typically has 300-900 people attending its board meetings. If combined with the BRN, the number of attendees will increase to over 1,200 people per meeting. The BVNPT has difficulty finding government rate facilities that hold 900 participants.
- Office Relocation – The mergers would require all impacted boards to incur the cost of office relocation, office renovations and other one-time moving expenses.

## **Process & Timelines**

Legislative action must be taken to effectuate the Governor's reorganization plan. As the proposal recommends implementation in Fiscal Year 2009/10, the following two options may be used to effectuate the reorganization:

Budget Trailer Bill – There are generally budget changes proposed by the Governor or the Legislature which necessitate changes to existing law in order to implement the budget bill. If this is the case, separate bills are introduced to implement the change. These budget implementation bills are called "trailer bills" and *are heard concurrently with the Budget Bill*. When the Budget Bill receives a two-thirds vote of each house, it is passed on to the Governor. The Constitution allows the Governor to reduce or eliminate an item of appropriation. The trailer bills are generally addressed as a package with the budget bill.

If the consolidation proposals are included as a budget trailer bill, the issue will be part of the overall Budget Bill for FY 2009/10. Legislative budget hearings will be scheduled on the Budget Bills. **The Budget Trailer Bill process does not progress with the same public scrutiny and deliberation normally afforded to regular legislative proposals.**

Little Hoover Commission Reorganization Plan – The Little Hoover Commission (LHC) indicates that:

The governor is authorized in statute to examine the organization of executive branch agencies and determine what changes may be necessary to promote more efficient and effective government services. The Legislature has granted the governor the authority to reorganize those functions whenever it is in the public interest. The reorganization process is permitted in Article V, Section 6 of the California Constitution. The statutory authority is in Government Code Sections 12080-12081.2.

The Little Hoover Commission's role in the reorganization process is described in Government Code Section 8523. The law requires the governor to submit any reorganization plan to the Little Hoover Commission "at least 30 days prior" to submitting the plan to the Legislature. Before submitting the proposal to the Commission, the plan must be submitted to Legislative Counsel for drafting into bill language.

The Commission's role in the reorganization process is only advisory. The Commission reviews and submits a report to the governor and the Legislature within 30 days of the plan being submitted to the Legislature. In other words, the Commission typically has 60 days to review a plan and complete its report.

The Commission conducts one or more public hearings, providing a forum for affected agencies, constituencies and interest groups to comment on the proposal. In addition to invited witnesses, the Commission hears testimony from other interests or members of the public who would like to testify. The Commission also welcomes written comments.

If the consolidation proposal is submitted to the LHC, the LHC will have 60 days to issue a recommendation to the Legislature on the Governor's Reorganization Plan (GRP). The GRP must also be submitted to the Legislature (about 30 days after submission to the LHC) for its review and possible action. The Legislature will have 60 days during which to review the GRP and allow it to take effect by operation of law or take up a negative resolution in either house to reject it.

Pursuant to Government Code, sections 12080-12081.2, the Governor has statutory authority to "examine the organization of all agencies and shall determine what changes therein are necessary to accomplish one or more of the following purposes...(d) To group, consolidate and coordinate agencies and functions thereof as nearly as possible according to major purposes; (e) To reduce the number of agencies by consolidating those having similar functions under a single head and to abolish such agencies or functions thereof as may not be necessary for the efficient operation of the state government; (f) to eliminate overlapping and duplication of effort. The Legislature declares that the public interest requires the carrying out of the purposes set forth in this section, and that such purposes may be accomplished more speedily and effectively under this article than by the enactment of specific legislation..." Therefore, whenever the Governor finds that reorganization is in the public interest, he can submit the proposal to the Senate Rules Committee and the Speaker of the Assembly in the form and language of a bill and the proposal will be referred to a standing Committee of their respective houses for study and a report.

Prior to the end of sixty calendar days, the applicable standing Committee from either house may include the language in a "resolution, by floor motion" and the resolution shall be voted upon without referral to any other committee or any legislative hearings. In addition, Government Code, section 12080.5 specifies that "Except as otherwise provided in this section, a reorganization

plan...shall become effective the first day after 60 calendar days of continuous session of the Legislature...or at a later date as may be provided by the plan...unless, prior to the end of the 60-calendar-day period, either house of the Legislature adopts by a majority vote...a resolution.” (Information was obtained from the LHC web site at [www.lhc.ca.gov](http://www.lhc.ca.gov))

### **Recommendation**

The BVNPT consider a position on the Governor’s proposal to:

- consolidate the LVNs with the Board of Registered Nurses *to create a new Board of Registered and Vocational Nurses*
- consolidate the PTs with the Board of Behavioral Sciences and the Board of Psychology to create a new *Board of Mental Health*.

Attachments:

1. Email from DCA Director, Carrie Lopez (dated 12/31/08)
2. The Governor’s Roadmap for More Efficient Government (dated 1/16/09)
3. KCRA News Story (dated 2/3/09)
4. Governor’s Reorganization Authority – Government Code Sections 12080 – 12081.2